



0000122329

RECEIVED
AZ CORP COMMISSION

STATE OF ARIZONA

JAN 20 4 22 PM '99

OFFICE OF THE ATTORNEY GENERAL

JANET NAPOLITANO
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

DOCUMENT CONTROL

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

January 20, 1999

VIA HAND-DELIVERY

Arizona Corporation Commission

DOCKETED

JAN 20 1999

DOCKETED BY	<i>ad</i>
-------------	-----------

Mr. Jerry L. Rudibaugh
Chief Hearing Officer
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007Re: Attorney General List of Issues, Docket No. RE-00000C-94-0165 and related
Dockets

Dear Mr. Rudibaugh:

Pursuant to your procedural order dated January 6, 1999, following is a list of the issues the Attorney General's office believes must be resolved to facilitate competition in the electric industry and the order and method in which they should be decided. Before any of the following issues are adjudicated, however, it is **essential that a procedural order be issued** scheduling the adjudication phases as requested by the Attorney General and RUCO in their letter dated January 4, 1999.

Issue 1. Interim Unbundled Tariffs and CTC - The Commission should fix tariff amounts subject to refund and establish an interim CTC that allows the immediate commencement of competition. This issue includes the sub-issue of setting the interim CTC at a level that provides sufficient incentives to competitors to move into new markets. This should be decided by setting a deadline for objections to filed unbundled tariffs, and deciding interim tariffs in a single hearing (one day) based on the written record and arguments of stakeholders.

Issue 2. Stranded Costs: The Commission should fix the dollar amounts of stranded costs in the hearings proposed by the Attorney General and RUCO based on filed applications, objections thereto and a hearing for each applicant based on testimony and the written record. The Commission should reconsider the Net Lost Revenues methodology based on the record in these hearings. These hearings should also address the sub-issues of :

- a. Impact of Net Lost Revenues on competition;
- b. Efficiencies and cost mitigation;
- c. Proportionality of CTC
- d. Securitization

The best way to resolve stranded costs issues is of course by negotiation. The Commission's imposition of interim unbundled tariffs and CTC will greatly facilitate negotiations. A rapid order fixing a dollar amount of stranded costs promises the best chance of successful negotiations on all remaining issues.

Issue 3. Unbundled Tariffs: The Commission should decide the formal unbundled tariffs in the stranded cost hearings based on applications filed, objections thereto, testimony and the written record at hearings on the issue. This issue includes the following sub-issues:

- a. Impact on competition of transmission/distribution tariffs
- b. No cross-subsidization of competitive activities

Issue 4. Market Power: The Commission should have a brief hearing (one or two days) and consider filed economic testimony and rebuttal, and arguments of counsel on the issues of horizontal and vertical market power.

Issue 5. Divestiture: The Commission should consider divestiture as a cure for vertical market power based on the record in the Market Power hearings, and should order divestiture, if applicable, based on the market power record.

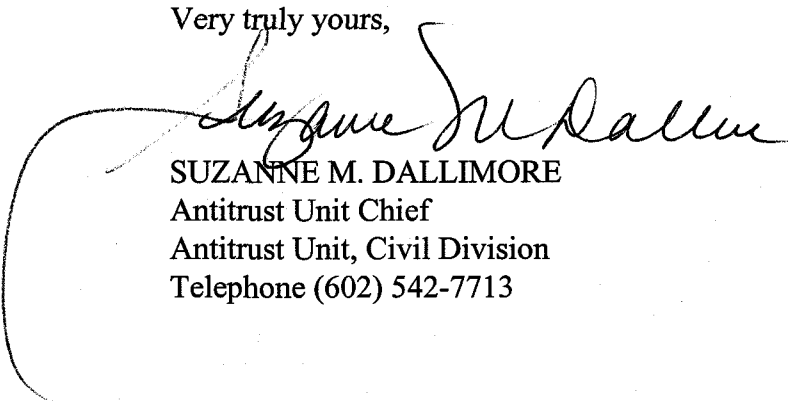
Issue 6. Competition Rules: The Commission should immediately reopen the Rulemaking docket and file the emergency rules passed in 1998 for comment. The Commission should consider amending rules only insofar as the hearings reveal the need for change, emphasis or Commission enforcement authority. For example, if vertical market power warrants divestiture, the rules should provide for the divestiture method. And, the rules may need to be strengthened regarding open access where market power exists. The Commission should decide the rules

Mr. Jerry L. Rudibaugh
January 20, 1999
Page 3

using the procedure recommended by the Attorney General and RUCO.

Thank you for your consideration of these matters.

Very truly yours,



SUZANNE M. DALLIMORE
Antitrust Unit Chief
Antitrust Unit, Civil Division
Telephone (602) 542-7713

cc: Docket Control
Parties of Record in re: Docket RE-00000C-94-0165